

Message Text

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ACTION STR-05

INFO OCT-01 EUR-12 IO-13 ISO-00 STRE-00 AGRE-00 CEA-01

CIAE-00 COME-00 DODE-00 EB-08 FRB-03 H-01 INR-07

INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 CTME-00

AID-05 SS-15 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02

OMB-01 FEA-01 /101 W

-----096235 232112Z /72

P 231957Z NOV 77

FM USMISSION GENEVA

TO SECSTATE WASHDC PRIORITY 3410

INFO AMEMBASSY BRUSSELS

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USMTN

USEC

ACTION STR FOR GREENWALD, LANDE, MATTHEISEN

E.O.11652: N/A

TAGS: ETRD, GATT, MTN

SUBJECT: FRAMEWORK GROUP--REDRAFT OF EC ENABLING CLAUSE

REF: A) GENEVA 10388, B) STATE 277901

1. SEPTEL REPORTED OUR MEETING WITH LUYTEN TO PRESENT U.S. CONCERNS ON ENABLING CLAUSE. FOLLOWING IS REVISED TEXT (REFLECTING CONCERNS ENUMERATED REF B) OF OUR REDRAFT OF EC ENABLING CLAUSE, USED AS REFERENCE FOR LUYTEN MEETING. (NOTE SLIGHT MODIFICATIONS IN PARAS 1, 3, 4 AND 6 FROM PREVIOUS MTN DEL REDRAFT.)

2. BEGIN TEXT: QUOTE

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1. THE PRESENT AGREEMENT SHALL NOT PREVENT, SUBJECT TO THE FOLLOWING PROVISIONS, THE EXTENSION TO DEVELOPING COUNTRIES OF GENERALIZED MEASURES OR PROCEDURES DESIGNED TO PROVIDE DIFFERENTIAL AND MORE FAVORABLE TREATMENT TO THOSE COUNTRIES WITH RESPECT TO THE PROVISIONS OF THE GENERAL AGREEMENT CONCERNING TARIFFS (FOOTNOTE: THIS PARAGRAPH SHALL NOT PERMIT BINDING IN THE GATT OF

PREFERENTIAL TARIFF RATES AND MARGINS.) AND NON-TARIFF MEASURES INCLUDED IN MULTILATERAL AGREEMENTS NEGOTIATED UNDER THE AUSPICES OF THE GATT; PROVIDED THAT IN EACH CASE SUCH TREATMENT IS IN ORDER TO RESPOND TO THE PARTICULAR CIRCUMSTANCES AND THE DEVELOPMENT NEEDS OF DEVELOPING COUNTRIES AND TO THE EXTENT THAT INDIVIDUAL DEVELOPMENT NEEDS CONTINUE TO JUSTIFY SUCH TREATMENT.

2. THE CONTRACTING PARTIES RECOGNIZE THAT SUCH TREATMENT

A) SHALL NOT PREVENT REDUCTION OF CUSTOMS DUTIES AND ELIMINATION OF OTHER RESTRICTIONS TO TRADE ON THE BASIS OF THE MOST-FAVORED-NATION CLAUSE;

B) SHALL BE DESIGNED TO FACILITATE THE TRADE OF BENEFICIARY COUNTRIES AND NOT TO SET UP OBSTACLES TO THE TRADE OF OTHER CONTRACTING PARTIES.

3. WITHOUT PREJUDICE TO OTHER RELEVANT PROVISIONS OF THE GENERAL AGREEMENT, ANY CONTRACTING PARTY WISHING TO TAKE ACTION PURSUANT TO PARAGRAPH 1 ABOVE, OR WISHING TO MODIFY SUCH ACTION SHALL PROMPTLY INFORM THE CONTRACTING PARTIES AND PROVIDE THEM WITH ALL INFORMATION REQUIRED SO AS TO PERMIT THEM, IF NECESSARY, TO MAKE ANY RECOMMENDATIONS THAT THEY MAY JUDGE APPROPRIATE WITH RESPECT LIMITED OFFICIAL USE

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TO THE PROVISIONS OF THE GENERAL AGREEMENT.

4. THE OPERATION OF MEASURES TAKEN PURSUANT TO THESE PROVISIONS SHALL BE PERIODICALLY REVIEWED BY THE CONTRACTING PARTIES IN THE CONTEXT OF DEVELOPING COUNTRIES' OVERALL TRADE AND DEVELOPMENT POLICIES. CURRENT INFORMATION RELEVANT TO SUCH REVIEW SHALL BE FURNISHED BY THE PARTIES WHICH HAVE TAKEN THE MEASURES, AND BY OTHER INTERESTED PARTIES. THE CONTRACTING PARTIES MAY ACT PURSUANT TO PARAGRAPH 3 IN THE LIGHT OF SUCH REVIEW.

5. IF ANY CONTRACTING PARTY CONSIDERS THAT A MEASURE TAKEN PURSUANT TO THESE PROVISIONS IS INCONSISTENT WITH THEM, OR IF AS A RESULT OF THE APPLICATION OF SUCH DIFFERENTIAL TREATMENT, IT CONSIDERS THAT A BENEFIT ACCRUING TO IT UNDER THE GENERAL AGREEMENT MAY BE OR HAS BEEN IMPAIRED, IT SHALL HAVE THE OPPORTUNITY OF CONSULTATION WITH THE COUNTRY OR COUNTRIES APPLYING SUCH MEASURES; AND, IF IT CONSIDERS THAT THESE CONSULTATIONS HAVE NOT BEEN SATISFACTORY, IT MAY, IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE XXIII OF THE GENERAL AGREEMENT, BRING THE MATTER BEFORE THE CONTRACTING PARTIES WHICH

WILL EXAMINE IT WITHOUT DELAY AND WILL FORMULATE ANY
RECOMMENDATIONS THAT THEY JUDGE APPROPRIATE.

6. CONSISTENT WITH THE PROVISIO OF PARAGRAPH 1, THE
CONTRACTING PARTIES SHALL REVIEW FROM TIME TO TIME (A)
WHETHER--IN THE LIGHT OF ECONOMIC CONDITIONS , INCLUDING
, AND , IN BENEFICIARY DEVELOPING
COUNTRIES--MEASURES TAKEN UNDER THE FOREGOING PROVISIONS
SHOULD CONTINUE TO BE APPLICABLE TO ALL COUNTRIES (OR TO
ALL SECTORS OF PRODUCTION WITHIN THOSE COUNTRIES)
GENERALLY REGARDED AS DEVELOPING COUNTRIES AS OF THE DATE
THOSE PROVISIONS ARE ADOPTED, AND (B) WHETHER THE
INDIVIDUAL TRADE, DEVELOPMENT AND FINANCIAL NEEDS OF

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PARTICULAR COUNTRIES MAY BE SUCH AT THE TIME OF REVIEW
AS TO JUSTIFY TERMINATION OF SOME OR ALL OF SUCH MEASURES
AND THE GREATER FULL ASSUMPTION BY THE CONTRACTING
PARTY CONCERNED OF THE RIGHTS AND OBLIGATIONS OF DEVELOPED
CONTRACTING PARTIES. END QUOTE.

3. DRAFTED BY HARTZELL. MCDONALD

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENT DRAFT, TRADE CONTROLS
Control Number: n/a
Copy: SINGLE
Sent Date: 23-Nov-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977GENEVA10952
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770435-0777
Format: TEL
From: GENEVA USMTN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19771127/aaaaawnl.tel
Line Count: 163
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 992ca413-c288-dd11-92da-001cc4696bcc
Office: ACTION STR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 GENEVA 10388, 77 STATE 277901
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 10-Mar-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 479536
Secure: OPEN
Status: NATIVE
Subject: FRAMEWORK GROUP--REDRAFT OF EC ENABLING CLAUSE
TAGS: ETRD, GATT, MTN
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/992ca413-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009